



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANDRE ANTROBUS,

Plaintiff,

-against-

DEPARTMENT OF CORRECTION AND  
EMPLOYEES C.O. HAYES, ALSO  
SUPERIORS DEPUTY WARDEN  
CAPTAINS OF O.B.C.C. 1600 HAZEN ST.  
EAST ELMHURST, QUEENS, N.Y., N.Y.  
13370 (RIKERS ISLAND),

Defendants.  
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# **ORDER**

07 Civ. 2076 (JSR)(KNF)

KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE

In this pro se action, brought pursuant to 42 U.S.C. § 1983 (“§ 1983”), Andre Antrobus (“Antrobus”) alleges that the defendants’ delay in providing postage stamps for his legal correspondence violated his constitutional rights, and caused him to suffer mental and emotional injuries. The plaintiff moved previously for counsel to be appointed to him; however, this request was denied, because the plaintiff’s allegations of mental and emotional injuries were insufficient to establish “a prior physical injury, the prerequisite to initiating a civil action by a prisoner.” See Dkt. Entry No. 18 (Feb. 28, 2008 Memorandum & Order).

Before the Court is the plaintiff’s renewed request that counsel be appointed to him. In support, the plaintiff submits a letter, dated May 6, 2009, from the Central New York Psychiatric Center, which states that Antrobus has been an “active Mental Health Patient” since January 10, 2007, and his “current diagnosis is Schizophrenia, Paranoid type.” It does not appear readily, from the May 6, 2009 writing, that Antrobus served the defendants with a copy of the instant

request for counsel. However, the request was discussed, during a pretrial conference the Court had with the parties, on May 13, 2009. In any event, having considered the plaintiff's submission,

IT IS HEREBY ORDERED, that the plaintiff's request is denied. The plaintiff has not made a showing that he suffered any physical injury, and, therefore, appointment of counsel is not warranted, since it appears the plaintiff's complaint lacks merit. See 42 U.S.C. § 1997e(e) ("No federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury").

Dated: New York, New York  
May 18, 2009

SO ORDERED:

Mailed copies to:

Andre Antrobus  
Michael Anthony Suarez, Esq.

  
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KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE